

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
TWR EXPRESS, INC.	)	FCC File No. 0001034357
	)	
Application to Modify the License for 900 MHz	)	
Trunked Business Radio Service Station	)	
WPIT641, Long Island City, New York	)	

**ORDER**

**Adopted: October 9, 2003**

**Released: October 10, 2003**

By the Deputy Chief, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. On December 20, 2002, TWR Express, Inc. (TWR) requested reconsideration of the dismissal of its application<sup>1</sup> to modify its license for Station WPIT641, Long Island City, New York.<sup>2</sup> TWR asked that the dismissal of the captioned application be reversed, the Notice of Dismissal rescinded, and the license modification application reinstated.<sup>3</sup> For the reasons set forth below, we dismiss TWR's reconsideration petition as moot.

2. On September 20, 2002, TWR filed an application for modification of its license for Station WPIT641 to change the location of its transmitter site. On December 4, 2002, the Licensing and Technical Analysis Branch (LTAB), Public Safety and Private Wireless Division dismissed the modification application because the proposed site was less than seventy miles from the transmitter site of co-channel Station WNQL767, New York, New York.<sup>4</sup>

3. The license for Station WNQL767 was deleted from the Commission's database on January 12, 2003, and thus, became available as of that date for frequency coordination purposes.<sup>5</sup> Thereafter, on April 2, 2003, TWR filed a new application for license modification<sup>6</sup> which was essentially identical to the one dismissed by LTAB on December 4, 2002.<sup>7</sup> In light of the removal of the license for Station WNQL767 FCC's database, the proposed new transmitter site for Station WPIT641 was no longer short-spaced, and thus, the site was in compliance with the Commission's rules. Consequently, LTAB granted the second modification application on June 11, 2003. In view of this grant, we conclude that the

<sup>1</sup> See Notice of Dismissal of FCC Application File No. 0001034357 (dated Dec. 4, 2002).

<sup>2</sup> TWR Express, Inc., Petition for Reconsideration (filed Dec. 20, 2002) (Petition).

<sup>3</sup> *Id.* at 3.

<sup>4</sup> See 47 C.F.R. § 90.621.

<sup>5</sup> See Mobile Relay Associates, Inc., *Order on Further Reconsideration*, 16 FCC Rcd 909, 912 ¶ 9 (WTB 2001); Applications of Samuel Ferguson and A to Z Enterprises, Inc., *Order on Reconsideration*, 15 FCC Rcd 24638, 24641 ¶ 7 (WTB 2000).

<sup>6</sup> FCC Application File No. 0001253785.

<sup>7</sup> There was a slight difference in the effective radiated power (ERP) requested in the two modification applications; otherwise, the two applications were indistinguishable.

petition requesting reconsideration of the dismissal of the first modification application is moot.<sup>8</sup>

4. IT IS ORDERED that, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the Petition for Reconsideration filed by TWR, Inc., on December 20, 2002, IS DISMISSED AS MOOT.

5. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone  
Deputy Chief, Policy and Rules Branch  
Public Safety and Private Wireless Division  
Wireless Telecommunications Bureau

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<sup>8</sup> See National Science and Technology Network, Inc., *Order of Modification*, 18 FCC Rcd 11321, 11326 ¶ 14 (WTB PSPWD 2003); Wireless Telecommunications Bureau Dismisses Petitions As Moot, *Public Notice*, 16 FCC Rcd 3848 (WTB CWD PRB 2001); Nathan Sherman Enterprises and William J. Young d/b/a Trex, *Order on Reconsideration*, 14 FCC Rcd 20658, 20658 ¶ 1 (WTB CWD PRB 1999); Amendment of Section 73.202(B), Wellington, Texas, *Memorandum Opinion and Order*, 14 FCC Rcd 104, 104 ¶ 3 (MMB PRD 1999).